1: Thurston & Rangachari AW50 Badaga AW50

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[For information on oaths, see Category 782.]

2: Hockings E-4,5 (1962-1977) 1980
AW50 Badaga AW50

000 If one of the litigants was a Kota his headman would also take part in the council.

•695 (566) The proceedings would begin with statements from the contending parties. Male witnesses might then be brought to support these statements. Females and serfs[8] never appeared before the councils, but if their evidence were considered important it would be heard in private by the headman in charge. Toreas could make statements and attend the meeting but used not to take an active part in the council's deliberations.

(602) (787) A man's family and lineage would normally support him in a dispute and provided the most usual 'witnesses'. Beside their testimony other kinds of admissible evidence included written receipts, re-enactments of the event, oaths testifying to a man's innocence and pronouncements uttered by a god through the mouth of an entranced man. If necessary a postponement was allowed for additional evidence to be brought. Presentation of the evidence was followed by a council discussion, after which the headman in charge voiced his opinion and determined punishment. It was not unusual to punish both parties in a dispute.[10]

Crime and Punishment

681 The following partial list of punishments suggests the sanctions traditionally placed on various crimes:

Planned murder of an adult—hanging
Unpremeditated murder—Rs. 48 fine, or servitude to the victim's family
Causing someone to commit suicide—Rs. 48 fine
Failure to obey an important order of the headman—ostracism
Failure to pay a fine—ostracism
Rape of a father's wife—ostracism or Rs. 48 fine
Rape of a son's wife—Rs. 24 fine or less
Rape of a brother's wife—minimal fine
} Reduced if the woman had consented; i.e., adultery
Man beating victim with leather—Rs. 24 fine, or head shaved
Woman beating victim with boom—Rs. 24 fine, or made to parade through village with basket of ash on her head
Minor misdemeanour—bow down inside the circle of the council (the minimal punishment)

(762) Attempted suicide—not considered an offence.

2: Hockings E-4,5 (1962-1977) 1980
AW50 Badaga AW50

631 2. A *commune* can be defined as the smallest administrative unit above the village, consisting of a number of contiguous villages under one headman and council; compare the definition in *The Oxford English Dictionary*, 1933, vol. II, 698. The commune used to be found in Serbia, and as the *tambon* it is a basic administrative unit in Thailand; there the headmen of the villages constituting a *tambon* elect one of their number to be commune chief.

3. *u:r gauda*, or *nataṃe*. An exceptional area near De:na:ḍu, on the eastern rim of the plateau, was so isolated and broken in terrain that it was only around 1960 that the nine Toṛea villages there formed a commune and elected a man from Tumbimale as their *u:r gauda*; before that they had recognized as a higher authority the headman of De:na:ḍu, a Wodea who was also the *'parpati* (see below, note 5) for Puraṅga:ḍu.

4. *hatti gauda*; small villages may do without a headman for years.

(643) 5. *parpati*, or *si:me gauda*; Thurston, 1909, vol. I, 80–81.

6. *na:ku heṭṭa gauda*, often referred to as Tu:ne:ri *Manegar*. (See Plate 4.)

7. Much the same system of headmen has been noted in the South Canara, Coimbatore and Coorg Districts; see, respectively, Thurston, 1909, vol. II, 269–272; Nambiar & Bharathi, 1965, 10, 63; Srinivas, 1965, 57–59.

566 8. Until some thirty years ago wealthy Badaga households had Badaga serfs, mainly from the poverty-stricken area of Kundena:ḍu, who were children bound to serve for a period of from five years (in the case of pre-puberty girls) to a maximum of twenty-one years (in the case of some youths). In return they received food and housing, and their parents were paid a sum of money. Those in servitude were generally well treated, being like children of the households where they worked. Harkness, 1832, 115, notes they were paid two or three rupees *per annum*.

● 695 9. Such divine utterances have not been given credence in this century but oaths have. The scale of oaths, in order of increasing severity, is this: (1) to assert 'it is true!' (2) to pull up some grass with the finger-nails and throw it onto the meeting-ground; (3) to touch the ground with one hand; (4) to put a cloth one is wearing on the ground and step over it; (5) to lay one's child on the ground and step over him—if a false oath, the child will magically die; (6) if non-vegetarian, to sacrifice a goat at the temple; (7) to visit the temple at a set time and swear one's innocence before the god. Divine punishment will fall on whoever breaks such oaths.

10. If after disposal of a case further evidence came to hand the headman could reopen the discussion and perhaps reach a different decision; this might protect him from being fined for a faulty judgment by a higher headman.

631 11. Grigg, 1880, 366; Natesa Sastri, 1892, 831; Thurston, 1909, vol. I, 79–80. The 177 Collector was always British.

622 12. These received the title of *sub-manegar* and a small salary from the British administration.

13. Officially these two roles entailed the following: 'The head of the village 622 [*manegar*] is the representative of Government in the village. He is the village magistrate and head of the village police. He is the collector of the revenue of 624 the village over which he presides, and has also to perform [miscellaneous small] duties . . . The karnam, who is entrusted with the keeping of village accounts, is subordinate to the head of the village. He should help and advise the head . . . in every way. He is the clerk of the head of the village in his

159 as a whole, the implication of the kick was that it was a direct insult to Lingan's
565 entire hamlet. And because the man who had given the kick was a member of the
672 gentry, the insult was considered to have come from his entire family. Knowing
592 all this, Lingan felt justified in making the attack on his friend. Belli recognized
(556) this fact and did not try to evade the implication; for to do so might bring his status
(627) as a member of the gentry into question. Belli therefore meekly apologized for his brother's behavior and, as he is a headman himself, thereupon fined himself four annas (5¢ U.S.) without calling any council to discuss the incident. He immediately handed the sum over to Lingan; but later gave his brother a stern lecture about his indiscretion."

565 672 592 This case makes a good illustration for the Badaga proverb, "The prestige of a great man can depend on a small boy." The people expect more honorable, even exemplary, behavior from the gentry than from others; and this expectation applies as much to younger members of the gentry as to their elders. The rule making the head of a gentry family responsible for the behavior of all its members thus constrains the younger members to behave in a way that will not dishonor the
(558) family head and thus the family reputation. If younger sons err seriously, they are likely to be disinherited and lose the claim to the status of gentry.

554 695 During the hearing of disputes a council is normally confronted with contradictory evidence. Whenever this happens they tend to evaluate the evidence not only in terms of any sort of abstract logical consistency, but also with respect to
(562) (565) the social status of the people presenting the evidence. The rules for evaluating contradictory evidence are therefore, I was told, that a headman should be believed
(609) (561) before any other man, a higher-level (e.g. divisional) headman before a lower-level one, a man should be believed before a woman, a member of the gentry or

554 any wealthy man should be believed before some ordinary man, a Badaga should
695 be believed before a non-Badaga (other factors being relatively equal), a small
(562) boy should be believed before an adult, but an old man should be believed before
(565) a younger one. Until about 1940 utterances from ghosts or gods (spoken through
(609) possessed mediums) were treated as reliable evidence, more reliable indeed than
(561) anything men might say.

Badagas are familiar with the phenomenon of in-group solidarity, as it
593 regularly finds graphic illustration in the hearing of village disputes. A man is
so dependent upon the support of his family in a dispute, as well as in his daily
ritual observances, that it is normally assumed -- unless he is disputing with his
(425) own brother -- that he will not lie to his family about anything. So if Kadan, for
example, is engaged in a dispute with Rangan over the shifting of a field boundary,
Kadan can expect his family's support in the matter even though they all know that
his evidence is a complete fabrication; indeed the whole family stands to gain if
613 Kadan wins the case, provided the family estate remains undivided until then. If
Rangan is from another lineage than Kadan (and the dispute is sufficiently impor-
tant, we might add), each man may win the active support of his entire lineage.
571 Similarly in a dispute between two men of different hamlets, each man's hamlet
621 will typically support him in the dispute even though his claim is known to be false.
At the level of inter-village disputes the support from an entire hamlet may be
forthcoming only because everybody feels the reputation of his own hamlet is at
578 stake: few would look for material gains in the situation. The fixing of village
(657) boundaries by the Revenue Board during the 1880's obviated the possibility of an
inter-village dispute over field boundaries; but important conflicts can still arise
over marriage and divorce, inheritance, debt and interest, theft, and a variety of

159 had paid to act as a false witness at the registration of the document was now
685 President of the Cooperative Society! This man, Madia, now did what seemed
691 best for his Cooperative Society, and -- without mentioning his own role in the matter -- he tipped off Ranga about the falsity of Jogi's agreement. Madia advised the young man to take the case to the magistrate's court and charge Jogi with false
159 representation. This would not be a difficult thing to do, as the woman who had
685 posed as Ranga's mother was still living, and it would therefore be possible to
691 check her thumb-print with that on the document. Such a sophisticated method of
692 proving the falsity of the document would be beyond the capabilities of the village council, and would probably win little support for Ranga's case there. (Presumably the President of the Cooperative Society had his own reasons for not wanting the matter discussed in his own village either!) But unfortunately Ranga had no money available at that time to initiate a hearing in the magistrate's court, and so there was nothing he could do. He did not take the matter to his own village council either, because he knew that today the council has little power to enforce its decisions; and the likelihood that Jogi would be able to bribe members of the council was too high to make this course of action palatable to Ranga.

"Whether bribes have in fact been given or not, though, the village coun-
159 cil has now discussed the case and is advising Ranga to repay the money his mother
• 695 supposedly borrowed from Jogi. They are thus trying to make a compromise of the situation, offering Jogi a financial inducement -- the money which he had never really lent -- and offering Ranga tenure of the two acres he has pledged and cancellation of Jogi's spurious agreement. Jogi for his part is apparently willing to accept this, for he is now urging Ranga to repay the amount of the supposed loan, and not under any circumstances to take the case to the magistrate's court. But it

159 is now up to Ranga to solve the problem."

•695 The solution which Ranga chooses must be couched in the current ambi-

159 legal idiom. If he attempts a solution purely in the traditional idiom or purely in
692 the lawcourt idiom, without taking the alternate system and Jogi's possible manipulation of it into account, then Ranga's chances of ultimate success are slim.

177 The point which the case of Jogi and Ranga underlines is that the intro-
671 duction of British procedural law in the 19th Century did not simply offer the Bada-
692 gas an alternative approach for solving conflicts in their community. To any
829 Badaga the procedure in the lawcourt must have seemed capricious: it operated on the assumption that all individuals were equal before the law, and that the proceedings must work directly towards a just decision; whether a man was a Toreya or a member of the gentry was irrelevant to how he would be treated; his past history and his family's reputation were similarly not taken into consideration when

578 the specific case came before the court. To Jogi and Ranga, therefore, as to many
691 of their Badaga contemporaries, the lawcourt is less of a mechanism for dispen-
692 sing justice than a possible means of revenge and a process for overcoming one's opponent (regardless of who is actually in the right). The use of a lawcourt can involve an opponent in crippling legal costs, or the threat of these costs may frighten him into compliance with what is required of him. The threat of going to a lawcourt after one's case has received unfavorable treatment at the hands of the village council can also be used to undermine the authority of the elders on

578 that council and cast aspersions upon the honor of the village. For over a cen-
691 tury the Badagas have had a saying that runs: "If you take a complaint to a Magistrate, it is as if you had put poison into your adversary's food" (Grigg 1880: 224). The belief is still voiced today; but in the interim Badagas have learned how to